

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**AMICA CEASER, *Individually and on  
behalf of Dakari Ceaser and Deeunta Ceaser,  
minor children***

**PLAINTIFF**

**V.**

**CAUSE NO. 3:12-CV-687-CWR-FKB**

**CITY OF JACKSON; REBECCA  
COLEMAN; JUSTIN HARPER; *and* JOHN  
DOES 1-5**

**DEFENDANTS**

*consolidated with*

**AMICA CEASER, *Individually and on  
behalf of Dakari Ceaser and Deeunta Ceaser,  
minor children***

**PLAINTIFF**

**V.**

**CAUSE NO. 3:14-CV-769-CWR-FKB**

**JUSTIN HARPER, *Individually; and* CITY  
OF JACKSON *for declaratory relief***

**DEFENDANTS**

**MEMORANDUM OPINION AND ORDER**

This matter is before the Court on the Motion of Plaintiff, Amica Ceaser, individually and on behalf of Dakari Ceaser and Deeunta Ceaser, minor children, for Default Judgment against Defendant Justin Harper. Docket No. 9. The Court finds that it has jurisdiction pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 1983. Having considered the relevant pleadings, the Court finds that the motion should be granted.

**FACTUAL AND PROCEDURAL BACKGROUND**

On October 1, 2014, Ceaser filed her Complaint, Docket No. 1, alleging various violations of her civil rights committed by defendants, including Defendant Justin Harper. The claims included excessive force. On the date of the filing of the Complaint, Plaintiff served

Harper with a summons and a copy of the Complaint, but he failed to appear or otherwise plead. On October 20, 2014, Proof of Service was filed in this Court establishing that service was proper pursuant to Federal Rule of Civil Procedure 4(h). Docket No. 3. On November 5, 2014, Plaintiff filed her Application for Clerk's Entry of Default, which the clerk granted on November 6, 2014. Docket Nos. 7-8. Plaintiff now seeks a default judgment against Justin Harper. Docket No. 9.

### DISCUSSION

Rule 55 of the Federal Rules of Civil Procedure sets forth conditions upon which default may be entered against a party, as well as the procedure to seek the entry of default judgment. Fed. R. Civ. P. 55. "The Fifth Circuit requires a three-step process for securing a default judgment." *Chevron Intell. Prop., L.L.C. v. Mashiana*, No. 4:10-CV-352, 2011 WL 2637372, at \*1 (E.D. Tex. June 10, 2011) (citing *New York Life Ins. Co. v. Brown*, 84 F.3d 137, 141 (5th Cir. 1996)). A default occurs when the defendant fails to plead or otherwise respond to the complaint within the time required by Rule 12 of the Federal Rules of Civil Procedure. *Id.* (citing Fed. R. Civ. P. 55(a); *New York Life Ins.*, 84 F.3d at 141). The clerk may then enter an entry of default when default is established by affidavit. *Id.* (citing Fed. R. Civ. P. 55(a); *New York Life Ins.*, 84 F.3d at 141). After an entry of default, the plaintiff may apply to the clerk or the court for a default judgment. *Id.* (citing Fed. R. Civ. P. 55(b)).

Because Harper failed to timely appear, answer, or otherwise plead in the instant litigation, the well-pleaded allegations in the Complaint are taken as admitted. *CENTRIA v. Alply Architectural Bldg. Sys., LLC*, No. 4:11-CV-79-CWR-LRA, 2012 WL 73235, at \*4 (S.D. Miss. Jan. 10, 2012) (citation omitted).

A separate hearing must be held to determine the amount of damages for which this defendant is liable. Fed. R. Civ. P. 55(b). Plaintiff will be permitted to present evidence on the claims as well as the damages she suffered because of the acts of Justin Harper. *See* Fed. R. Civ. P. 55(b)(2).

### **CONCLUSION**

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that the Motion for Default Judgment as to Justin Harper is granted. The Court will defer entering judgment until the Court receives and considers the evidence on damages at an evidentiary hearing. Available hearing dates can be obtained from the undersigned's chambers. Prior to said hearing, counsel for Plaintiff shall serve a copy of this Order and the Notice of Hearing on Justin Harper at his last known address or at the place wherein Harper was served the Summons and Complaint.

**SO ORDERED AND ADJUDGED**, this the 30th day of September, 2015.

s/ Carlton W. Reeves  
UNITED STATES DISTRICT JUDGE